IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 609 OF 2007

IN

SUIT NO.1154 OF 1992

Popatlal Fulchand Sundesha & Ors. ... Plaintiffs.

V/s.

Vidyut Enterprises & Ors. ... Defendants.

Mr. Gaurav Joshi with Simil Purohit i/b. M/s.Gajaria & Co. for plaintiffs.

Mr. Nusrat Shah for defendant Nos.1,2,4 & 6.

Ms. Aakanksha Thakkar with Sanjay Kotale i/b. M/s. Purananand & Co. for defendant Nos. 7 & 8.

CORAM : ANOOP V. MOHTA,J.

DATED : 29th March, 2007

P.C.

Plaintiffs have taken out this Notice of Motion during the trial of the main suit for filing additional documents on record.

2. In the plaint in para 5, there is a clear reference of these documents. The memorandum of mortgage dated 17/11/1989 has referred in the second schedule these documents. In the examination-in-chief of plaintiff No.1 in para 11, there is a clear

reference of these original title deeds mentioned in second schedule of the Memorandum of mortgage, except the deed of conveyance dated 17/11/1989.

3. After hearing both the parties and after considering the controversy in dispute between the parties, I see there is no reason to disallow this Notice of Motion, as contended by the learned counsel for defendant No.1 2, 4 and 6. As averred, the plaintiffs failed to file these documents on record at the appropriate stage of the proceedings inadvertently. However, as these documents are relevant for proper adjudication of the suit, I am inclined to grant prayer Clauses (a) & (b) of the Notice of Motion.

4. So far as defendants are concerned, they are free to take appropriate pleas in accordance with law, in view of the fact that these original documents are placed on record at this stage of the proceedings.

5. Notice of Motion is allowed in terms of prayer Clauses (a) & (b). However, it is subject to cost of Rs.10,000/- (Rupees Ten Thousand only) to be paid to defendant No.6 on behalf of all defendants, as agreed

within a period of one week as a condition precedent.

6. Notice of Motion is disposed of accordingly.

7. Let the matter be listed for argument after two weeks.

[ANOOP V. MOHTA, J.]